

## **WORK SESSION AGENDA**

**CITY COUNCIL WORK SESSION  
TUESDAY  
NOVEMBER 13, 2012**

**COUNCIL CHAMBERS  
211 WEST ASPEN AVENUE  
6:00 P.M.**

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**

*NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.*

MAYOR NABOURS  
VICE MAYOR EVANS  
COUNCILMEMBER BAROTZ  
COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS  
COUNCILMEMBER OVERTON  
COUNCILMEMBER WOODSON

*As a reminder, if you are carrying a cell phone, electronic pager, computer, two-way radio, or other sound device, we ask that you turn it off at this time to minimize disruption to tonight's meeting.*

### **4. Public Participation**

Public Participation enables the public to address the council about items that are not on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work session. You may speak at one or the other, but not both. Anyone wishing to comment at the meeting is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone to have an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

### **5. Preliminary Review of Draft Agenda for the November 20, 2012, City Council Meeting. \***

*\* Public comment on draft agenda items will be taken under "Review of Draft Agenda Items" later in the meeting. Citizens wishing to speak on agenda items not specifically called out by the City Council for discussion under the second Review section may submit a speaker card for their items of interest to the recording clerk. The item will be called out during the second "Review of Draft Agenda Items" to allow citizens the opportunity to comment. Citizens are also encouraged to submit written comments.*

- 6. Presentation by Homer Rodgers, Assistant Deputy Director of the Arizona Department of Veterans Services, regarding a potential Veterans Home and Cemetery in Bellmont, Arizona.**
- 7. Northern Arizona University (NAU) High Country Conference Center Return on Investment Presentation.**

8. **Integrated Solid Waste Management Plan & Results from the 2012 Solid Waste Audit**
9. **Discussion/presentation regarding SB1598, Regulatory Bill of Rights, and the implications of its implementation to City permit and approval processes.**
10. **Discussion of Civil Rights Ordinance.**
11. **Review of Draft Agenda Items for the November 20, 2012, City Council Meeting.\***  
*\* Public comment on draft agenda items will be taken at this time.*
12. **Public Participation**
13. **Informational Items To/From Mayor, Council, and City Manager.**
14. **Adjournment**

CERTIFICATE OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Flagstaff City Hall on \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m. in accordance with the statement filed by the City Council with the City Clerk.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Elizabeth A. Burke, MMC, City Clerk

# Memorandum

6.

## CITY OF FLAGSTAFF

**To:** The Honorable Mayor and Council  
**FROM:** Elizabeth A. Burke, City Clerk  
**Date:** 11/08/2012  
**Meeting Date:** 11/13/2012



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### TITLE

**Presentation by Homer Rodgers, Assistant Deputy Director of the Arizona Department of Veterans Services, regarding a potential Veterans Home and Cemetery in Bellmont, Arizona.**

### INFORMATION

As requested by Vice Mayor Evans and Councilmember Oravits and consented by a majority of Council, staff contacted Col. Strickland of the Arizona Department of Veterans Services inviting him to give a presentation on the potential veterans home and cemetery in Bellmont, Arizona. Col. Strickland was unable to attend; however, he asked that Mr. Rodgers, the Assistant Deputy Director, attend to make such presentation.

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### Attachments:

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#### Form Review

Inbox	Reviewed By	Date
City Manager	Kevin Burke	11/09/2012 07:55 AM
DCM - Jerene Watson	Elizabeth A. Burke	11/09/2012 08:10 AM
Form Started By: Elizabeth A. Burke		Started On: 11/08/2012 04:07 PM
	Final Approval Date: 11/09/2012	

# Memorandum

7.

## CITY OF FLAGSTAFF

**To:** The Honorable Mayor and Council  
**FROM:** Heather Ainardi, CVB Director  
**Date:** 08/29/2012  
**Meeting Date:** 11/13/2012



### TITLE

**Northern Arizona University (NAU) High Country Conference Center Return on Investment Presentation.**

### RECOMMENDED ACTION

This item is for Work Session information and discussion only.

### INFORMATION

During the Boards and Commissions updates to the City Council at the June 26, 2012 Work Session, Councilmember Overton requested an update on the High Country Conference Center business activities and what has been the measure of a return on the City's investment. Specifically, the request was for information regarding pricing, audience, potential markets, and any adjustments that have been made or may be needed.

Background and History: The High Country Conference Center was born out of the need for a conference center with a hotel and parking facility. The project was developed through an intergovernmental agreement between NAU and the City of Flagstaff; Drury Inn built and financed the hotel. Financial commitments included a capital investment of an initial \$24.7 million from NAU and \$2 million as a capital contribution from the City to support the construction of public facilities, including but not limited to financial participation in the construction of the conference facility, parking structure and other public improvements. Total investment for the project, including construction of the Drury Hotel, totaled \$45.7 million.

The Center opened in March of 2008 and currently offers more than 25,000 square feet of meeting space. NAU contracts with Sodexo Conferencing to manage the facility and operations. Representatives from Northern Arizona University, the High Country Conference Center, Economic Collaborative of Northern Arizona, and Flagstaff Convention and Visitors Bureau will be presenting information on the performance of this partnership to the Council.

### Attachments:

### Form Review

Inbox	Reviewed By	Date
Economic Vitality Director	Heather Ainardi	09/07/2012 02:53 PM
Convention and Visitors Bureau Staff (Originator)	Heather Ainardi	09/10/2012 02:40 PM
Economic Vitality Director	Stacey Button	09/10/2012 02:46 PM
DCM - Jerene Watson	Jerene Watson	09/19/2012 09:39 AM
Economic Vitality Director	Stacey Button	10/02/2012 04:49 PM

Convention and Visitors Bureau Staff (Originator)

Economic Vitality Director

DCM - Jerene Watson

Form Started By: Heather Ainardi

Heather Ainardi

Stacey Button

Jerene Watson

10/15/2012 08:28 AM

10/15/2012 10:04 AM

10/19/2012 05:58 PM

Started On: 08/29/2012 08:18 AM

Final Approval Date: 10/19/2012

# Memorandum

8.

## CITY OF FLAGSTAFF

**To:** The Honorable Mayor and Council  
**FROM:** Matthew Morales, Project Manager  
**Date:** 11/08/2012  
**Meeting Date:** 11/13/2012



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### TITLE

#### **Integrated Solid Waste Management Plan & Results from the 2012 Solid Waste Audit**

### INFORMATION

One of the FY 13 Council Priorities includes “maintain and deliver quality, reliable infrastructure”. In response, the Solid Waste Section established a goal to draft the Integrated Solid Waste Management Plan (Management Plan) for Cinder Lake Landfill. The Management Plan initiates the following steps:

1. Gather necessary data
2. Determine triggers for implementation of future programs and infrastructure
3. Design and budget for the program needs and infrastructure
4. Allow the community to assess the programs’ success after implementation

Staff has completed the first step of gathering relevant data. One of the most challenging tasks required staff to identify disposal and diversion trends by City residents and businesses. The task was achieved by performing a waste audit of landfill trash in July, 2012. Below are the following observations:

- Solid Waste disposal rates within the City of Flagstaff are lower than the national average (2.0 pounds per person per day compared to 4.4 pounds per person per day respectively)
- Flagstaff residents and businesses account for 73% of total recyclables
- Other Contributors - IGA’s 7%, Norton Environmental 18%, Private Haulers 2%
- Overall diversion (re-use and recycle) volumes are increasing year-over-year
- 2011 - Re-use increased 5% and recycle decreased 2% from the previous year
- Recycle rates within Flagstaff could be improved by as much as 28% (12,000 tons) annually
- 2011 Profits from sales of recyclable materials were \$366,072. Market rates are historically volatile.

Staff has gathered the necessary data to prepare the foundation of the Management Plan. In subsequent work sessions, staff will discuss triggers for implementation of future programs and infrastructure (step 2 noted above).

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### Attachments:

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### Form Review

Inbox	Reviewed By	Date
Public Works Director	Erik Solberg	11/08/2012 02:54 PM
DCM - Jerene Watson	Elizabeth A. Burke	11/08/2012 05:30 PM
Form Started By: Matthew Morales		Started On: 11/08/2012 01:25 PM
	Final Approval Date: 11/08/2012	

# Memorandum

9.

## CITY OF FLAGSTAFF

**To:** The Honorable Mayor and Council  
**FROM:** Roger Eastman, Zoning Code Administrator  
**Date:** 11/05/2012  
**Meeting Date:** 11/13/2012



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### TITLE

**Discussion/presentation regarding SB1598, Regulatory Bill of Rights, and the implications of its implementation to City permit and approval processes.**

### RECOMMENDED ACTION

Presentation to Council for information only. No specific direction from the Council is sought.

### INFORMATION

In this work session with the City Council, staff will provide a brief overview of SB1598 - the Regulatory Bill of Rights - that was approved by the Arizona Legislature in the 2011 legislative session. A description of how the Bill will be implemented will be provided with specific reference to permits and approval processes administered within the Community Development Division.

SB1598 was introduced to the Arizona legislature by the Arizona sand and gravel industry who were displeased with what it felt were unreasonable enforcement and permitting delays and irregularities on the part of a Valley city. The Bill's intent is to ensure fair and open regulation by all Arizona municipalities (i.e. cities and counties). The Bill essentially includes two principal parts, one that establishes standards and rules for inspections with an effective date of June 30, 2012, and the second being the Regulatory Bill of Rights which establishes rules for licensing time frames and compliance with an effective date of **December 31, 2012**. Also included in the bill is a requirement specific to a municipal General Plan (Regional Plan) regarding the need to map aggregates within a city or county.

A detailed overview of SB1598 is provided in the attachment, "Overview of SB1598 - Regulatory Bill of Rights", and only a brief summary of key provisions is reproduced in this report. The overview includes the following information:

- The advantages/benefits of SB1598
- The requirements for licensing time frames - administrative and substantive review
- License application process
- Directory of documents
- Complaints and clarification of interpretations
- Exemptions
- Implementation ideas and notes
- Summary of implications of SB1598.

As noted in the attached summary, some aspects of SB1598 are sensible and will ensure fair and open regulation by Arizona cities and counties. For example, within the inspections portion of the bill, rules are established to ensure that a person is entitled to receive information and notice regarding inspections, and that all inspectors must have proper photo identification. Within the Regulatory Bill of Rights portion of the bill, there are also common sense provisions, including requirements that:

- Municipalities must only base an approval decision (a license and licensing - see the definition below) on an established rule, ordinance, or code.
- Municipalities must avoid duplication of codes that do not enhance regulatory clarity, and shall avoid dual permitting as much as possible.
- Licenses may be approved or denied within a predetermined period of time.
- A person is entitled to written notice of denial of a license application including a reference to the applicable code section on which the denial is based.
- A person is entitled to receive information on the license application process when making an application.
- A directory of all municipal codes must be provided on the municipal website, and all municipal codes must be available for inspection.

Note that for the purposes of the bill, a "license" is defined very broadly, and it includes *"the whole or part of any municipal permit, certificate, approval, registration, charter, or similar form of permission required by law."*

The attachment clearly describes the bill's requirements for all municipalities to establish licensing time frames, including an "Administrative Review" time frame in which an application for a license (i.e. a permit or approval) must be reviewed for completeness, and a "Substantive Review" time frame in which the license must be reviewed for compliance with applicable codes. Both of these time frames, which together are the "Overall" time frame must be provided to an applicant and adhered to by the municipality.

As explained in the attachment, all City Divisions that are responsible for the approval of a license are required to comply with the requirements of SB1598. This includes, for example, Business Licenses issued by the Tax and Licensing Section, Special Event Permits issued by the Recreation Section, and the many permits and approvals granted within the Community Development Division, including Sign Permits, Temporary Use Permits, Site Plan Review Approvals, Right-of-Way Permits, etc.

To assist the City Council understanding of how SB1598 would apply to a typical review process, attached is a diagram that illustrates the existing and proposed review process for a major project for which impact analyses are required through the IDS (Inter Divisional Staff) review process. This would apply, for example, to the review of a new Walmart or large big-box store, or a large apartment complex. These are typically reviewed in about seven weeks (i.e. 35 working days), but depending on the calendar and the number of days in a month, these can be slightly shorter or slightly longer, 33 or 37 days respectively. The illustrations represent typical worst case scenarios. A brief explanation of these illustrations is provided below.

1. At the top of the first page is a simple illustration under the heading "Typical Overall Process - Major Project w/ Impact Analyses (IDS 7-Week Review)" that shows the steps required in the review of a major project from the optional pre-application meeting, through concept review, site plan review, and finally review and approval of grading and building permits so that construction can commence. Note that SB1598 does not apply to the pre-application and concept review stages of a project review because no approvals are granted in these meetings.
2. Under the heading "Pre-Entitlement Site Plan Review - Major Project with Impact Analysis" is an illustration showing the existing review time frame before the requirements of SB1598 are implemented for a major project based on the approximately seven week (35 day) time frame for staff review and approval.
3. Option 1 shows the implications of implementing SB1598's requirements for Administrative Review and Substantive Review if existing staff through IDS are used to complete these reviews. Assuming only one set of corrections (as required by the bill), the overall review time frame is significantly longer than the existing IDS process for a project of this scale. However, if an applicant heeds all of staff comments provided in the concept plan review stage, and there are no major issues with the site plan review submittal, then it is conceivable that the project could be approved (perhaps with conditions) in a shorter time frame that is equivalent to the existing IDS review time frame without the need for a second submittal step.
4. Option 2 on the next page expands this concept further (i.e. assumes the applicant heeds staff's

comments provided at concept review), and is based on the assumption that there would be one staff person dedicated to administrative completeness review for all licenses reviewed and approved within CD. As a result, the overall time frame for a major project could be reduced even further.

5. Finally, a separate Typical Overall Process for a Zone Change Request (i.e. a Zoning Map amendment) for a major project is illustrated showing how the Concept Plan/Zone Change Review and public hearings portions of the overall time frame are excepted from the requirements of SB1598.

Over the past few months staff has worked closely with planners from other Arizona cities to understand the implications of SB1598, to determine how best to implement the bill, and to understand the possible impacts to customer service that could result from the bill's implementation. There is general consensus that the intent of the legislation is sound and will ensure fairness, openness, and transparency. However, there is also universal concern that implementing the bill as it is written will have unavoidable negative impacts, and that unfortunately, it does include provisions that are contrary to the current culture of supporting and encouraging development by the Community Development Division and other City Divisions. Some examples of perceived negative impacts include:

- Removes the ability to be flexible and accommodate special needs
- Reduces the quality of customer service due to increased submittal and tracking complexity
- Complicates the process with more stringent bureaucracy.

However, as stated previously the bill is intended to ensure fair and open regulation by Arizona municipalities, and thus some possible positive impacts include:

- Improved project tracking, especially with the pending implementation of the Innoprise Permit Tracking software
- Clarity of project requirements
- Efficient use of staff time
- Improved communication
- Greater value placed on customer's rights
- Required updates to the City's, and possibly Division's, web pages.

### Conclusion:

This new law will require all City departments to review its procedures related to how permits, licenses, and other approvals are processed, reviewed, and approved or denied. The procedures need to include clear direction regarding what must be submitted to obtain an approval, how long the review process will take, and an applicant's rights to appeal any unfavorable decision. The new law also imposes new restrictions on how inspections are conducted and exposes the City to the filing of special proceedings in court which can include the award of damages and court costs for improper processing or decisions.

The Central Arizona Home Builders Association (CAHBA) will most likely be proposing amendments to SB1598 in the upcoming legislative session. This may be through a stand alone bill, or with the amendments attached to another bill. It is staff's understanding that they support the intent of the bill, but that it has reached too far, and they are most likely to be requesting " *amendments to remove its application from the entitlement process*" [Jackson Moll, Municipal Liaison, CAHBA]

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**Attachments:**     [SB1598 Attachment](#)  
                              [SB1598 FlowCharts](#)

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### Form Review

Inbox	Reviewed By	Date
Community Development Director	Mark Landsiedel	11/06/2012 07:25 PM
DCM - Jerene Watson	Jerene Watson	11/06/2012 09:15 PM
Community Development Director	Elizabeth A. Burke	11/08/2012 05:33 PM

DCM - Jerene Watson

Elizabeth A. Burke

11/08/2012 05:34 PM

Form Started By: Roger Eastman

Started On: 11/05/2012 02:22 PM

Final Approval Date: 11/08/2012

# Overview of SBI 598 – Regulatory Bill of Rights – and a Framework for Implementation

October 16, 2012  
Updated: November 3, 2012

## Introduction:

- Introduced by Arizona sand and gravel industry – displeasure at what they felt were unreasonable enforcement and permitting delays and irregularities with a Valley city
- Passed by the Arizona Legislature in the 2011 session – its intent is to ensure fair and open regulation by municipalities (i.e. cities and counties).
- Principally two parts:
  - Inspections (**Effective date June 30, 2012**)
  - Regulatory Bill of Rights – Licensing time frames and compliance (**Effective December 31, 2012**).
- Also, one element specific to a municipal General Plan (Regional Plan) regarding the need to map aggregates within a city or county.

## Some aspects of SBI 598 are sensible:

### Inspections:

- Person is entitled to receive information and notice regarding inspections
- Inspectors must have photo identification.
- Applies only to inspections necessary for the issuance of a license (i.e. not to a code compliance/enforcement visit to a property).
- New language regarding inspections has already been added to all CD permits for which inspections are required.

### Regulatory Bill of Rights:

- Municipalities must only base an approval decision (license and licensing) on an existing rule, ordinance, or code.
- Municipalities must avoid duplication of codes that do not enhance regulatory clarity, and shall avoid dual permitting as much as possible.
- Licenses may be approved or denied within a predetermined period of time.
- A person is entitled to written notice of denial of a license application including a reference to the applicable code section on which the denial is based.
- A person is entitled to receive information on the license application process when making an application.
- A directory of all municipal codes must be provided on the municipal website, and all municipal codes must be available for inspection.

## Summary of SBI 598 (Regulatory Bill of Rights):

### Important Definitions:

- **License** – “Includes the whole or part of any municipal permit, certificate, approval, registration, charter or similar form of permission required by law”.
- **Licensing** – “Includes the municipal process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license”.

**Note:**

This therefore applies to all permits, approvals, certificates, etc. issued by the City in all Divisions – building permits, certificate of occupancy, zone change approvals, final plats, sign permits, solid waste permits, right-of-way permits, etc. It **EXCLUDES** liquor licenses and off-track betting licenses because these are not “municipal permits” – the city is only a recommending body to the state. It also **does not apply to** licenses issued within 7 working days (e.g. currently a Temporary Business Sign Permit) or that expire within 21 working days after issuance.

**9-834 Prohibited Acts by Municipalities:**

- A city shall base a licensing decision in whole or in part on a requirement or condition that is specifically authorized by statute, rule, ordinance or code. A general grant of authority does not constitute a basis for imposing a licensing requirement or condition unless the authority specifically authorizes it.
- The city shall avoid duplication of other laws that do not enhance regulatory clarity and shall avoid dual permitting to the maximum extent possible.

**9-835 Licensing Time Frames, etc.:**

- Requirement for an overall time frame for all licenses issued by the city to include:
  - Administrative completeness review
  - Substantive review time frame.
- Deadline for compliance – **December 31, 2012**
- Guidelines are provided on how to establish time frames – a city must consider, for example, available resources, complexity of the license, impact on health and safety, etc.

**Administrative Completeness Review:**

- The **city** shall issue a written notice of administrative completeness or deficiency within the defined administrative review time frame. Multiple departments in a city (e.g. those in the IDS process) may each provide coordinated notice of completeness or deficiency.

**Notes:**

(1) This requirement implies a coordinated notice of completeness in the event multiple city divisions/sections/programs are involved in the review. Either way, whether it's one program responding or a Single Point of Contact (SPOC) responding on behalf of other reviewers, a response must be submitted to the applicant within the time frame. For all development projects that are reviewed at an IDS (Inter Divisional Staff) meeting, the response to the applicant will be funneled through the project SPOC. *The longest administrative review time frame from a program may therefore, determine the final administrative time frame for a license or permit.* Each Division as needed may, therefore, need to establish a SPOC.

(2) Also be aware that when determining the length of time for administrative/completeness review – each program reviewer should determine how long this is and what is involved – consideration needs to be given to the need for more than one resubmittal of the application in response to completeness comments.

- If an application is incomplete or deficient:
  - A comprehensive list of deficiencies must be provided to the applicant within the established administrative review time frame
  - The time clock is stopped until the missing/corrected information is resubmitted to the city.
  - A city may issue additional notice of administrative completeness or deficiency, within the total time dedicated to administrative review.
  - Multiple departments in a city (e.g. those in the IDS process) may each provide notice of completeness or deficiency – coordinated through the SPOC.
  - **Important** – if the notice of administrative deficiency is not issued within the established time frame the application is considered complete.
  - If timely notice of deficiencies is issued, the application is not deemed complete until all requested information has been submitted.

**Notes:**

- (1) Acceptance of completeness of a submittal is no guarantee of its approval.
- (2) An application may be denied within the time frame if it is not complete.
- (3) Issue – we will need to develop comprehensive check lists for each license (permit or process) against which the application is reviewed to determine completeness.

**Substantive Review:**

- During the substantive review the **city** may only make one (1) comprehensive written request for additional information.
- Multiple departments in a city (e.g. those in the IDS process) may each provide a coordinated notice of a request for additional information.

**Note:** Again, as referred to above, because the “city” as well as each division/section/program must respond to the applicant within the established time frame, at least for all IDS projects, these will be provided to the applicant through the project SPOC. Other city divisions may have to establish their own SPOC if multiple reviewers are involved.

- The city and the applicant may mutually agree in writing to allow the city to submit supplemental requests for information. This provision may be added to each permit/process application form.
- The time clock is stopped until the request for supplemental information is resubmitted to the city.
- By mutual agreement the city and the applicant may extend the substantive review time frame (and also therefore the overall time frame). Extension of the substantive review time frame may not exceed 25% of the overall time frame. ( See below.)

Administrative Review	Substantive Review	Overall Time Frame	25% of Overall Time Frame	Extended Overall Time Frame
0 – 10 days	0 - 90 days	100 days	25 days	90 + 25 days = 115 days

- City shall issue a written notice to the applicant granting or denying the license within the overall time frame (unless an extension has been mutually agreed upon). A denied application must include:
  - Justification for the denial with references to applicable codes, regulations or standards
  - Explanation of applicant's right to appeal (includes deadline to file, city contact person, etc.).
- **Important** – if the notice granting or denying the license is not issued within the overall time frame or the agreed time frame extension, the city shall refund all fees, and shall excuse the payment of as yet unpaid fees. The refund shall be made within 30 working days after expiration of the overall time frame or the agreed time frame extension without the applicant having to ask for a refund. Refund must come from the fund in which the application fees were originally deposited. **Note** - the city shall continue to process the application, and there is no longer any time frame within which it must be completed.

**Notes:** If an application is denied, a citation to the relevant City Code section must be provided that was the cause of the denial. May be difficult if an application is denied because staff has run out of time to complete it!

- Administrative review and substantive review time frame requirements **do not apply to** licenses issued within 7 working days (e.g. currently a Temporary Business Sign Permit, Minor Improvement Permit, or Parking Lot Maintenance Permit) or that expire within 21 working days after issuance.

**Note:** For applications that require final approval by the Planning and Zoning Commission (e.g. a CUP) or the City Council (e.g. a zone change, plan amendment), the substantive review time frame will be put on hold from the time the hearing is noticed (on site and in newspaper) until 30 days after final Council action, at which time the substantive review time frame will continue. Refer to the model used by the City of Phoenix on Page 9. [Note – we can and should refine the specifics of this idea to best suit our practice and needs.]

**9-836 License Application Process:**

- The following information must be provided with the application for all licenses:
  - List of steps for that license (flow diagram or narrative)
  - Licensing time frames – administrative, substantive, and overall
  - Contact information for city staff person (presumably SPOC?)
  - Website and e-mail information
  - Notice that an applicant may receive clarification from the city of how it is interpreting a code, regulation, or standard

**9-837 Directory of Documents:**

- City shall publish or place on website a directory summarizing the subject matter of all codes, standards, and substantive policy statements (e.g. the Regional Plan or Water Policy)
- All of these shall be open to public inspection at the city offices or city website.

**Note:**

For all City Code Titles a short summary of each title will need to be created and placed on the City website with the City Code.

**9-838 Complaints; Governing Body Review:**

- The City Council may receive complaints on, review, hold hearings, and may recommend changes to City codes, regulations, and substantive policy statements.

**9-839 Clarification of Interpretation:**

- A person may in writing request clarification from the city of its interpretation or application of a code, regulation, etc.
- City may meet with the person making this request for clarification, and shall respond in writing within 30 days of receipt of the request.
- City may change the interpretation in writing if there is a change in the law (e.g. changes in legislation) that was applicable at the time the interpretation or clarification was made.

**9-840 Exemptions:**

- Does not apply to a city code, regulation, or substantive policy statement that relates only to:
  - the internal management of the city with no affect on procedural or substantive rights or duties of the public;
  - the physical servicing, maintenance, or care of the city's owned or operated facilities or property;
  - inmates or committed youth, correctional or detention facility under the jurisdiction of the city; or
  - a city contract.

## **Implementation Ideas and Notes:**

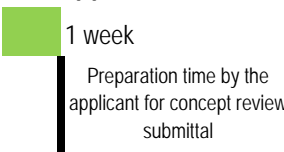
1. Regional Plan – be aware of the requirements for aggregates that must be included in the Regional Plan as well as the need to map the locations where aggregates are found.
2. Within the IDS framework, the SPOC has a critical role relative to the administrative and substantive review process – all comments and corrections must be funneled to and from the applicant through the SPOC.
3. Each program or sub-program/reviewing group must establish their own rules and requirements for administrative review and substantive review as they will vary from one license (permit/process type) to another, e.g. time frames and administrative requirements for a sign permit will be very different from a major site plan review.
4. Once each program or sub-program/reviewing group has established these time frames, they will be coordinated within the framework of an overall time frame for each license type.
5. Each Division will need to develop a comprehensive list of all permits and processes, who manages/is responsible for them, the proposed administrative review and substantive review time frames, and check lists to help with administrative review.
6. Each Division must check that for all license (permit/process) application forms that the requirements of Section 9-836 are included – includes list of steps, time frames, contact information, etc.
7. Each Division must create a “directory of documents” to be placed on the City’s website in the City Code section - coordinate with Liz Burke and/or Kim Ott.
8. It has been determined that SB1598 applies to each level of an approval in a complex case, i.e. if a project requires site plan review and a building permit the requirements for administrative review and substantive review will apply to each of these processes and permits.
9. Applications that require a legislative decision to be made by the Planning and Zoning Commission (such as approval of a Conditional Use Permit) and the City Council (e.g. a Zoning Map amendment (zone change) or Regional Plan amendment), compliance with the requirements of SB1598 is not required as the final decision to approve or deny is not made by staff, but by the legislative body. However, consistent with the Bill, staff will post administrative and substantive review time frames for the time that an application is under review by staff for completeness, and within which a recommendation is formulated and presented in a report to either the Planning and Zoning Commission or the City Council.
10. For major projects for which site plan review approval is needed, for example Juniper Point, the City is able to ask an applicant to waive their rights under SB1598, similar to a Prop 207 waiver, as this would be in the best interest of the applicant to do so.

**Summary of Implications:**

1. Compliance with SB 1598 is not optional! December 31, 2012 is the deadline for “licenses”.
2. It applies to all “licenses” – “any permit, certificate, approval, registration, charter or similar form of permission required by law”.
3. A person is entitled to receive information on the license application process when making an application.
4. If an application is not reviewed for completeness within the administrative time frame it is deemed complete.
5. If an application is not reviewed within the substantive time frame (or extended time frame), all fees are returned to the applicant, and the review continues.
6. A denial is required to be based on a specific code citation from the City Code.
7. No duplication of codes and minimize dual permitting.
8. Directory of documents on the City webpage.

Typical Overall Process - Major Project w/ Impact Analyses (IDS 7-Week Review)

Pre-Application Meeting



Concept Plan Review



Site Plan Review



Limit of SB1598 Application

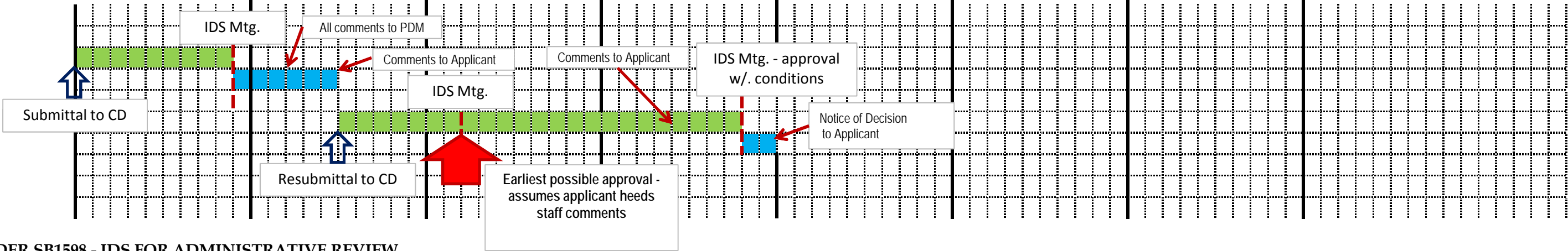
Grading Plan & Building Permit Review

12 weeks

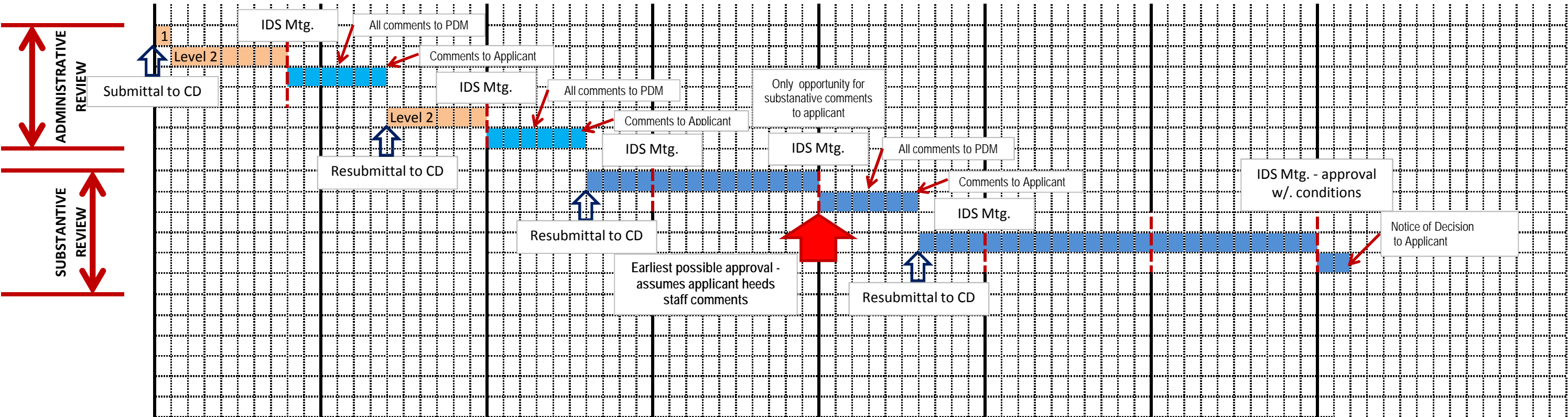
Pre-Entitlement Site Plan Review - Major Project w/ Impact Analyses (IDS 7-Week Review)

WORKING DAYS 0 10 20 30 40 50 60 70

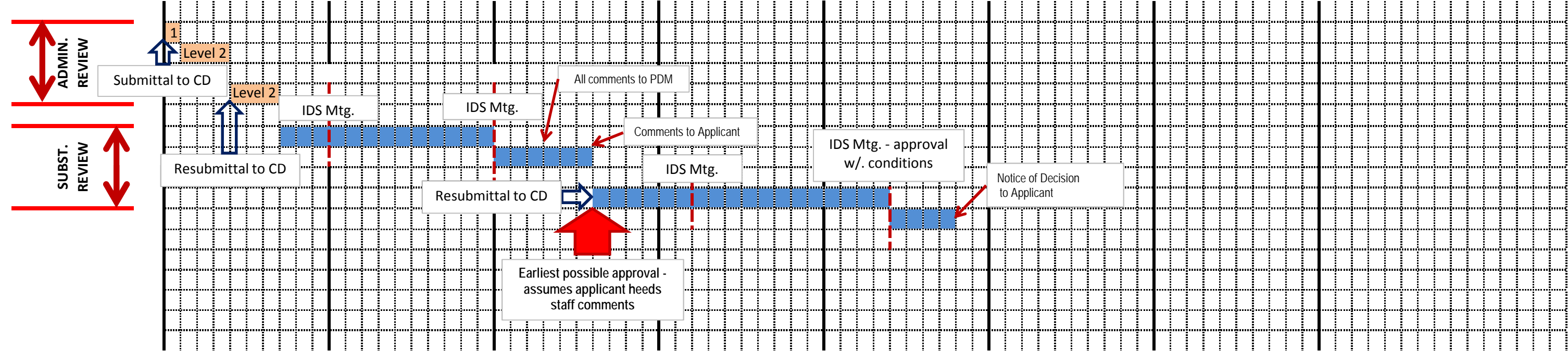
CURRENT IDS PROCESS: PRE-SB1598



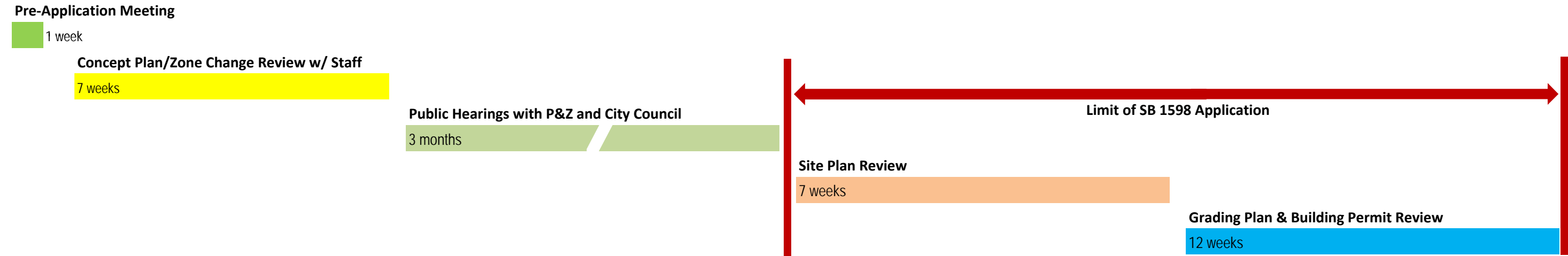
OPTION 1 UNDER SB1598 - IDS FOR ADMINISTRATIVE REVIEW



OPTION 2 UNDER SB1598 - DEDICATED STAFFING FOR ADMINISTRATIVE REVIEW



Typical Overall Process - Zone Change Request for a Major Project w/ Impact Analyses (IDS 7-Week Review)



# Memorandum

10.

## CITY OF FLAGSTAFF

**To:** The Honorable Mayor and Council  
**FROM:** Josh Copley, Deputy City Manager  
**Date:** 11/02/2012  
**Meeting Date:** 11/13/2012



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### TITLE

**Discussion of Civil Rights Ordinance.**

### RECOMMENDED ACTION

Provide direction to staff on Council's preferences regarding a Civil Rights Ordinance.

### INFORMATION

A civil rights ordinance has been a topic of discussion by this present City Council as well as previous Councils. Most recently, at the Work Session of July 10, 2012, Council indicated its desire to continue this discussion and consider policy questions relevant to establishing a Civil Rights Ordinance. These policy questions include such things as: Who will be protected? How will an ordinance be enforced? What businesses or organizations will be affected? Will there be any exceptions?

In order to learn from the experiences of another city that had adopted a civil rights ordinance, Council invited the Mayor of Salt Lake City, Ralph Becker, to the Council Work Session of September 25, 2012. Mayor Becker shared some of his thoughts and perceptions pertaining to his work on Salt Lake City's civil rights ordinance and answered questions from Council and the public.

As Council considers the many options it has for creating a civil rights ordinance for Flagstaff, it may find it beneficial as background information to review the current status of protections and policies that are already available to our citizens.

### Protections:

- Arizona Revised Statutes 13-702 provides for enhanced sentencing for criminal offenses committed against a person based upon the defendant's perception of the victim's identity with any of the following groups: race, color, religion, national origin, sexual orientation, gender, or disability. These protections under Arizona Revised Statutes notwithstanding, a civil rights ordinance addresses, as civil matters, non-criminal behaviors such as discrimination in the workplace or in places of public accommodation.
- The Arizona Attorney General's Office Division of Civil Rights investigates and resolves complaints of discrimination in employment, housing, and public accommodation made by any person including citizens of Flagstaff. Most of these complaints, if filed with the AG's Office, are considered to be "dual-filed" with the federal government. It should be noted that neither the state nor the federal government provides protections for sexual orientation or gender identity. Furthermore, the employment protections that are afforded are applicable only to those employers who have fifteen or more employees.
- City Ordinance No. 2011-25, Domestic Partnership Registry allows a registered domestic partner to

be included in any rights and privileges accorded a spouse when using or accessing city facilities. It also allows for visitation of a patient at all health care facilities operating within the city. Since the implementation of this Ordinance, there have been four couples who have registered as domestic partners.

- City of Flagstaff employees are protected from job discrimination because of race, color, religion, gender, age, veteran's status, citizenship, disability, national origin, or sexual orientation (City Ordinance No. 2013) Similar protections are also provided to employees of the federal government and Arizona state government including universities, and employees of Coconino County.

### **Policies:**

- 1999: Council adopted Ordinance No. 2013 amending the city code pertaining to equal opportunity and affirmative action for city employees to add sexual orientation to the list of protected groups.
- 2006: Council adopted Resolution No. 2006-62 supporting active efforts to achieve the goal of inclusive communities.
- 2009: Council adopted Resolution No. 2009-12, affirming the city's commitment to fair and equitable treatment of all persons regardless of their race, color, creed, religion, national origin, ancestry, disability, marital status, sex, gender identity or expression, sexual orientation, veteran's status, age familial status, and physical characteristics.
- 2011: Council adopted Ordinance No. 2011-25 which established a Domestic Partnership Registry.

### **Policy Choices:**

If Council chooses to move forward with creating a Civil Rights Ordinance, there are several policy choices that will need to be decided before staff can begin the task of drafting a document that will then come back to Council for review and possible changes. As previously stated, four main policy questions are:

- **Who is protected?** The state and federal governments already provide protections on the basis of a person's race, color, religion, national origin, sex, disability, pregnancy, familial status, age, veteran's status, and genetic information in both public accommodation and for employers with 15 or more employees.
- Does Council want to add sexual orientation and gender identity to its list of protected classes?
- **How will a new ordinance be enforced?** The state Attorney General's Office has many resources at its discretion to conduct investigations and resolve discrimination complaints received from citizens of Arizona, including those living in the City of Flagstaff. Flagstaff residents do not have to travel to Phoenix to file a complaint as they can be made electronically on the AG's website. If Council chooses to extend coverage of current federal and state protected classes to employers with less than fifteen employees or adds sexual orientation and gender identity to the list of protected classes, the City of Flagstaff will be solely responsible for investigating and resolving any discrimination complaints it receives based upon this extension.

As you can see from the attached comparison chart of cities with a civil rights ordinance, all have designated an office within city government to receive and process discrimination complaints. In speaking with representatives in these three cities, I have learned that they do not attempt to duplicate the enforcement efforts already provided by the state and/or federal government. Simply put, they deal with only those additional protections created by their respective ordinances. Typically, they have designated a person or persons within their City Manager's Office or Human Relations Division to oversee Equal Opportunity Programs and receive and process discrimination complaints. If established, an Office of Equal Opportunity Programs would use the resources at its disposal to investigate complaints and determine whether or not a complaint is valid. If there is a reasonable basis for the complaint, the Office of Equal Opportunity Programs could use mediation, conciliation, or persuasion to

attempt to resolve the matter to the satisfaction of both parties.

If the Office of Equal Opportunity Programs is unable to resolve the complaint, it may be referred to the City Attorney's Office for possible prosecution in Municipal Court.

Another option may be to use an outside Administrative Hearing Officer to attempt to resolve the complaint rather than rely on City staff. This person would only be used as necessary when an actual complaint is received and determined to have a reasonable basis. My understanding is that the three cities we have researched have not experienced a significant amount of discrimination complaints.

- The choices for Council to decide in the area of enforcement include:
  - 1) Designate city staff to be responsible for investigation and resolution of complaints.
  - 2) Hire an outside investigator and Administrative Hearing Officer.
  - 3) Create a private cause of action and refer complainants to court.
- **What businesses and organizations will be covered?** From the comparison chart you can see that between federal and state government, most employers are responsible to adhere to the law. The exception is for those employers with less than fifteen (15) employees.
- Does the Council desire to extend employment discrimination coverage to employers with less than fifteen employees?

The City of Flagstaff is preempted by state law from enacting any ordinance prohibiting discrimination in housing. One note to add is that the Arizona Civil Rights Act (ACRA) covers employers with one or more employees in cases of sexual harassment. Discrimination in public accommodation is already prohibited under federal and state law and is not dependent upon the number of employees a business has. However, these protections do not include sexual orientation and gender identity.

- **Will there be exclusions?** The City of Flagstaff does not have the authority to remove the exclusions already afforded under federal and state law. However, the City may choose to add other exclusions as it deems appropriate. An example is if the Council decided to cover employers with less than fifteen employees where currently they are excluded. As a reminder, federal and state governments, as well as their political sub-divisions like counties, universities, and community colleges are excluded from any civil rights ordinance enacted by the city. Moreover, Native American Tribes and their official offices located within the city limits are not subject to any civil rights ordinance of the city. Private clubs, religious organizations and expressive associations under the freedom of speech provisions of the First Amendment (e.g. Boy Scouts, etc.) are also excluded.
- Does the Council desire to grant any additional exclusions to an ordinance?

**Next Steps:** If Council chooses to create a Civil Rights Ordinance, staff will immediately begin to draft a document in accordance with the direction we have received. Once a new ordinance is drafted, it would be our intent to return it to Council as soon as possible for review and to receive any additional input.

**Public Outreach:** In addition to any public comment received by Council during Work Sessions and Meetings, it may decide to direct staff to conduct additional outreach to the community. The following are some examples of groups or organizations we could solicit input from if so desired by Council:

- Diversity Awareness Commission
- Chamber of Commerce
- Large businesses over 100 employees
- Faith based community
- ??? Other groups or organizations as determined by Council

**Attachments:**     Civil Rights Powerpoint Presentation

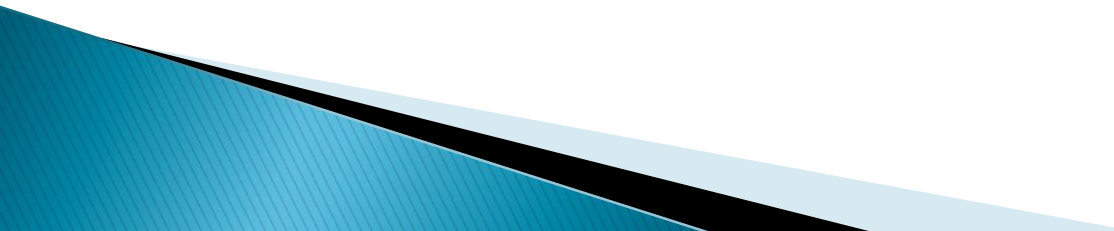
**Form Review**

Inbox	Reviewed By	Date
City Manager	Josh Copley	11/06/2012 03:41 PM
DCM - Josh Copley (Originator)	Josh Copley	11/08/2012 08:47 AM
City Manager	Josh Copley	11/08/2012 08:57 AM
DCM - Josh Copley (Originator)	Josh Copley	11/08/2012 09:44 AM
City Manager	Kevin Burke	11/08/2012 12:59 PM
DCM - Josh Copley (Originator)	Elizabeth A. Burke	11/08/2012 01:25 PM
DCM - Jerene Watson	Jerene Watson	11/08/2012 01:40 PM
Form Started By: Josh Copley		Started On: 11/02/2012 04:31 PM
Final Approval Date: 11/08/2012		

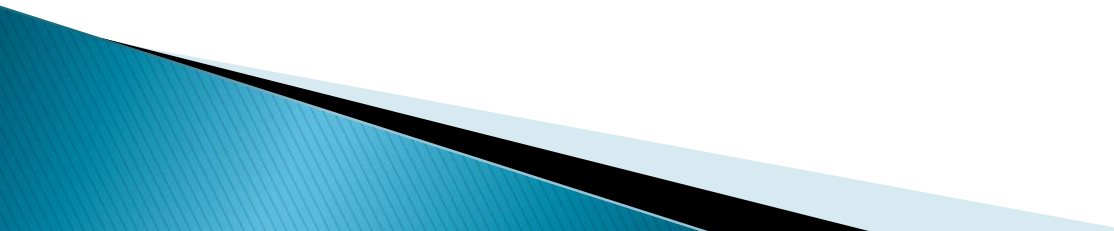
# City of Flagstaff

## Civil Rights Ordinance

# Current civil rights policies

- ▶ 1999: Council adopted Ordinance No. 2013 amending the city code pertaining to equal opportunity and affirmative action for city employees to add sexual orientation to the list of protected groups.
  - ▶ 2006: Council adopted Resolution No. 2006-62 supporting active efforts to achieve the goal of inclusive communities.
  - ▶ 2009: Council adopted Resolution No. 2009-12, affirming the city's commitment to fair and equitable treatment of all persons regardless of their race, color, creed, religion, national origin, ancestry, disability, marital status, sex, gender identity or expression, sexual orientation, veteran's status, age familial status, and physical characteristics.
  - ▶ 2011: Council adopted Ordinance No. 2011-25 which established a Domestic Partnership Registry.
- 

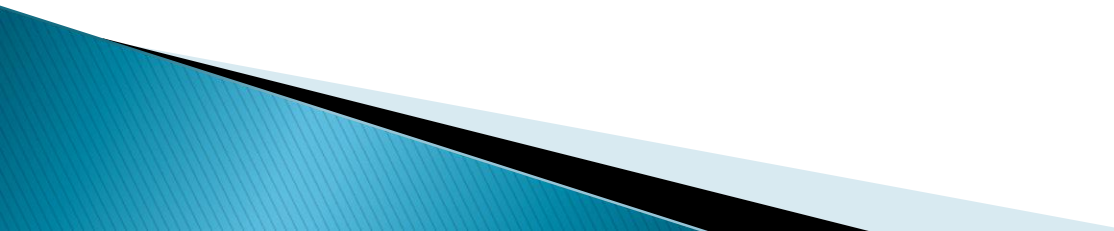
# Policy Questions

- ▶ Who is protected?
  - ▶ How will a new ordinance be enforced?
  - ▶ What will be covered in employment and public accommodation?
  - ▶ Will there be additional exclusions?
- 

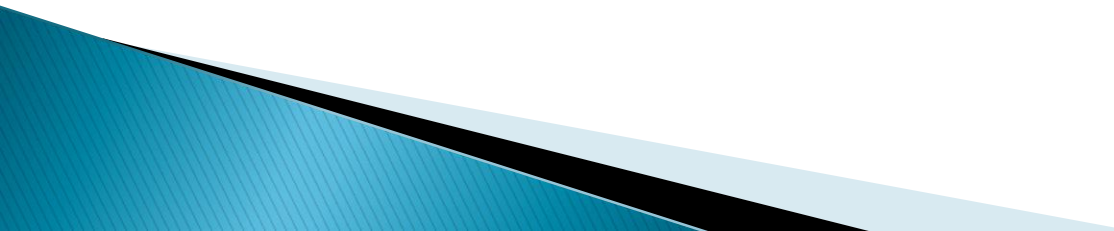
	FEDERAL	STATE of ARIZONA	FLAGSTAFF
<b>Protected Classes</b>	Race, Color, Religion, National Origin, Sex, Disability, Pregnancy, Familial Status, Age, Veterans Status, Genetic Information.	Race, Color, Religion/Creed, National Origin/Ancestry, Sex, Physical/Mental disability, Retaliation, <i>Age</i> , <i>Pregnancy (employment only)</i> , Familial Status (Housing only)	Unless a local jurisdiction has enacted an anti-discrimination ordinance of its own, the protections afforded to its citizens default to what is provided under Federal and State Law.
<b>Enforcement</b>	EEOC, Private Cause of Action by Victim.	AG's Office Civil Rights Division, Private Cause of Action by Victim.	
<b>What is covered</b>	<p>-All private employers with 15 or more employees, state and local governments, and education institutions that employ 15 or more individuals. (20 or more for ADEA) These laws also cover private and public employment agencies and labor organizations.</p> <p>-Public Accommodation</p> <p>-Housing</p>	<p>-All employers with 15 or more employees. 1 or more employees in cases of alleged sexual harassment (ACRA).</p> <p>-Public Accommodation:</p> <ul style="list-style-type: none"> <li>• Restaurants</li> <li>• Banks</li> <li>• Hotels/Motels</li> <li>• Museums/Parks</li> <li>• Day Care Centers</li> <li>• Health Clubs</li> <li>• Retail Stores</li> <li>• Theaters</li> <li>• Medical/Dental Offices</li> <li>• Health Care Facilities</li> </ul> <p>-Housing</p>	State Law preempts a city with less than 350,000 in population from enacting ordinances prohibiting discrimination in housing.
<b>Exclusions</b>	Employers with less than 15 employees, Federal Government, Religious Organizations, Private Clubs, Native American Tribes, Expressive Associations (e.g. Boy Scouts, etc.)	Employers with less than 15 employees, Federal Government, Religious Organizations, Private Clubs, Native American Tribes, Expressive Associations (e.g. Boy Scouts, etc.)	

	Salt Lake City	Tucson	Phoenix
<b>Protected Classes</b>	Sexual Orientation, Gender Identity	Race, Color, Religion, Ancestry, Sex, Age, Disability, National Origin, Sexual Orientation, Gender Identity, Familial Status or Marital Status	Race, Color, Religion, Sex, National Origin, Marital Status, <i>Age*</i> , <i>Genetic Information*</i> , <b><i>Sexual Orientation**</i></b> <i>*employment only, not for public accommodation</i> <i>**only applies to vendors, suppliers, or contractors doing business with city with more than 35 employees</i>
<b>Enforcement</b>	City Administrator (EEO Consultant), City Legal Department for prosecution	City Manager's Office of Equal Opportunity Programs, Tucson Human Relations Commission (for appeals), City Attorney for prosecution	Equal Opportunity Department, City Attorney for prosecution
<b>What is covered</b>	Employers with 15 or more employees, Employment Agencies, Labor Organizations	Employers with 1 or more employees but less than 100, Employment Agencies, Labor Organizations, Owners, Operators, Lessees, Managers, Agents, or Employees of any place of public accommodation	Employers with 1 or more employees, Employment Agencies, Labor Organizations, Owners, Operators, Lessees, Managers, Agents, or Employees of any place of public accommodation
<b>Exclusions</b>	Employers with less than 15 employees, Religious Organizations, U.S. Government, The State of Utah or any of its political subdivisions except for the City of Salt Lake.	Religious Organizations, U.S. Government, Native American Tribes, State of Arizona, Pima County, Private Clubs, Expressive Associations (e.g. Boy Scouts, etc.)	Religious Organizations, U.S. Government, Native American Tribes, State of Arizona, Maricopa County, Private Clubs

# Protected Classes

- ▶ Sexual Orientation/Gender Identity & expression
  - ▶ Race, Color, Religion, Creed, National Origin, Ancestry, Disability, Marital Status, Sex, Gender Identity or Expression, Sexual Orientation, Veteran's Status, Age, Familial Status
- 

# Enforcement

- ▶ City Manager's Office of Equal Opportunity Programs
  - ▶ City Attorney
  - ▶ Administrative Hearing Officer
  - ▶ Flagstaff Municipal Court
- 

# Covered

- ▶ Employers
  - ▶ Owners
  - ▶ Operators
  - ▶ Managers
  - ▶ Agents
  - ▶ Employees
- 

# Exclusions

- ▶ Employers with  $> 15$  employees\*
- ▶ Native American Tribes
- ▶ Private Clubs
- ▶ Expressive Associations
- ▶ Federal Government
- ▶ State Government
- ▶ County Government

\*Unless Council decides to increase coverage to Employers with 1 or more employees.

